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6

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

2:10-CV-0828-LDG (PAL)

12 \$446,121.27 IN UNITED STATES CURRENCY,

13 Defendant.

14 SETTLEMENT AGREEMENT, STIPULATION FOR ENTRY OF JUDGMENT OF
15 FORFEITURE AS TO JOSEPH AND RITA SCHLAGETER, AND ORDER

16 The United States of America, by and through Daniel G. Bogden, United States Attorney for
17 the District of Nevada, and Drew Smith, Assistant United States Attorney, and Joseph Schlageter and
18 Rita Schlageter, by and through their counsel, David Z. Chesnoff and Richard M. Barnett, stipulate
19 as follows:

20 1. This civil forfeiture action forfeits \$446,121.27 in United States Currency
21 ("US\$446,121.27") under 31 U.S.C. § 5317(c)(2).

22 2. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to the
23 abandonment, the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture
24 of the US\$446,121.27.

25 3. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to forfeit
26 US\$446,121.27 to the United States.

1 4. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to relinquish
2 all right, title, and interest in the US\$446,121.27.

3 5. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive their
4 right to any abandonment proceedings, any civil administrative forfeiture proceedings, any civil
5 judicial forfeiture proceedings, or any criminal forfeiture proceedings ("proceedings") concerning the
6 US\$446,121.27.

7 6. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive
8 service of process of any and all documents filed in this action or any proceedings concerning the
9 US\$446,121.27 arising from the facts and circumstances of this case.

10 7. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive any
11 further notice to them, their agents, or their attorneys regarding the forfeiture and disposition of the
12 US\$446,121.27.

13 8. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree not to file any
14 claim, answer, or petition in any proceedings concerning the US\$446,121.27.

15 9. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to withdraw
16 any claims, answers, counterclaims, petitions, or other documents they filed in any proceedings
17 concerning the US\$446,121.27.

18 10. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive the
19 statute of limitations, the CAFRA requirements, Fed. R. Crim. P. 7(c)(2), 32.2(a), and 32.2(b)(3), Fed.
20 R. Civ. P. Supp. Rule A, E, and G, and the constitutional due process requirements of any
21 abandonment proceeding or forfeiture proceeding concerning the US\$446,121.27.

22 11. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive their
23 right to a trial on the forfeiture of the US\$446,121.27.

24 12. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive (a)
25 all constitutional, legal, and equitable defenses to, (b) any constitutional or statutory double jeopardy
26 defense or claim concerning, and (c) any claim or defense under the Eighth Amendment to the United

1 States Constitution, including, but not limited to, any claim or defense of excessive fine in any the
2 abandonment, the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture
3 concerning the US\$446,121.27.

4 13. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to the entry of
5 a Judgment of Forfeiture of the US\$446,121.27 to the United States.

6 14. Joseph Schlageter and Rita Schlageter understand that the forfeiture of the
7 US\$446,121.27 shall not be treated as satisfaction of any assessment, restitution, fine, cost of
8 imprisonment, or any other penalty that may be imposed on Joseph Schlageter and Rita Schlageter in
9 addition to forfeiture.

10 15. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to the
11 conditions set forth in this Settlement Agreement, Stipulation for Entry of Judgment of Forfeiture, and
12 Order ("Settlement Agreement").

13 16. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to hold
14 harmless the United States, the United States Department of Justice, the United States Attorney's
15 Office for the District of Nevada, the Department of the Treasury, the Internal Revenue Service, their
16 agencies, their agents, and their employees from any claim made by Joseph Schlageter and Rita
17 Schlageter, or any third party arising out of the facts and circumstances of this case.

18 17. Joseph Schlageter and Rita Schlageter knowingly and voluntarily release and forever
19 discharge the United States, the United States Department of Justice, the United States Attorney's
20 Office for the District of Nevada, the Department of the Treasury, the Internal Revenue Service, their
21 agencies, their agents, and their employees from any and all claims, rights, or causes of action of any
22 kind that Joseph Schlageter and Rita Schlageter now have or may hereafter have on account of, or in
23 any way growing out of, the seizures and the forfeitures of the property in the abandonment, the civil
24 administrative forfeitures, the civil judicial forfeitures, and the criminal forfeitures.

25 18. Each party acknowledges and warrants that its execution of the Settlement Agreement
26 is free and is voluntary.

19. The Settlement Agreement contains the entire agreement between the parties.

20. Except as expressly stated in the Settlement Agreement, no party, officer, agent, employee, representative, or attorney has made any statement or representation to any other party, person, or entity regarding any fact relied upon in entering into the Settlement Agreement, and no party, officer, agent, employee, representative, or attorney relies on such statement or representation in executing the Settlement Agreement.

21. After the property is forfeited in the civil case and the United States District Court has signed the Settlement Agreement concerning the property, within forty-five days thereafter, the United States knowingly and voluntarily agrees to release to Joseph Schlageter and Rita Schlageter the sum of \$371,121.37 less any debt owed to the United States, any agency of the United States, or any debt in which the United States is authorized to collect, to Joseph Schlageter and Rita Schlageter through their attorney, David Chesnoff, at Law Offices of Chesnoff & Schonfeld, 520 South Fourth Street, Las Vegas, Nevada 89101. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to fill out the ACH form and submit it to the United States Attorney's Office so the payment of the \$371,121.37 is by electronic fund transfer.

22. The persons signing the Settlement Agreement warrant and represent that they have full authority to execute the Settlement Agreement and to bind the persons and/or entities, on whose behalf they are signing, to the terms of the Settlement Agreement.

23. This Settlement Agreement shall be construed and interpreted according to federal forfeiture law and federal common law. The jurisdiction and the venue for any dispute related to, and/or arising from, this Settlement Agreement is the unofficial Southern Division of the United States District Court for the District of Nevada, located in Las Vegas, Nevada.

24. Each party shall bear their own attorneys' fees, expenses, costs, and interest.

25. This Settlement Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for

1 one of the parties; it being recognized that both parties have contributed substantially and materially
2 to the preparation of this Settlement Agreement.

3 IT IS HEREBY CERTIFIED, pursuant to 28 U.S.C. § 2465(a)(2), that there was reasonable
4 cause for the seizure and forfeiture of the \$446,121.27 in United States Currency.


5 DATED: 5-20-10

DATED: 5/25/10


6 CHESNOFF & SCHONFELD

DANIEL G. BOGDEN
United States Attorney

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8 
9 DAVID Z. CHESNOFF
Counsel for Joseph and Rita Schlageter


DREW SMITH
Assistant United States Attorney

10 DATED: 5-24-10

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12 
13 RICHARD M. BARNETT
Counsel for Joseph and Rita Schlageter

14 DATED: 5-20-2010

15 
16 JOSEPH SCHLAGETER

17 DATED: May 20, 2010

18 
19 RITA SCHLAGETER

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21 IT IS SO ORDERED:

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23 
24 UNITED STATES DISTRICT JUDGE

25 DATED: 26 June 2010

26 26 July 2010